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10 a Florida limited liability company  
doing business as Merchant Cash Cloud  
11

12 **UNITED STATES DISTRICT COURT**  
13 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**  
14

15 JASON ALAN, individually and on  
16 behalf of all others similarly situated,

17 Plaintiffs,

18 vs.

19 MERCHANT CASH CLOUD,

20 Defendants.  
21  
22

Case No.: 2:15-cv-04500 SVW (MRWx)

Action Filed : 06-15-2015

Pre-Trial Date: [TBD]

Trial Date: [TBD]

**ANSWER TO COMPLAINT BY  
DEFENDANT EAGLEPHILLIPS,  
LLC, A FLORIDA LIMITED  
LIABILITY COMPANY DOING  
BUSINESS AS MERCHANT CASH  
CLOUD**

**DEMAND FOR JURY TRIAL**

[Filed Concurrently With:

- Notice of Interested Parties; and
- Corporate Disclosures]



1 Defendant, EAGLEPHILLIPS, LLC, a Florida limited liability company  
2 doing business as MERCHANT CASH CLOUD (“Defendant”), hereby answers the  
3 Complaint on file herein as follows:

4  
5 **NATURE OF THE CASE**  
6

7 **Answer to Paragraph 1:** This answering Defendant denies the allegations  
8 contained in this paragraph.  
9

10 **JURIDICTION AND VENUE**  
11

12 **Answer to Paragraph 2:** This answering Defendant is without sufficient  
13 information to admit or deny the allegations and, based thereon, denies the  
14 allegations contained in this paragraph.  
15

16 **Answer to Paragraph 3:** This answering Defendant is without sufficient  
17 information to admit or deny the allegations and, based thereon, denies the  
18 allegations contained in this paragraph.  
19

20 **PARTIES**  
21

22 **Answer to Paragraph 4:** This answering Defendant is without sufficient  
23 information to admit or deny the allegations and, based thereon, denies the  
24 allegations contained in this paragraph.  
25

26 **Answer to Paragraph 5:** This answering Defendant denies the allegations  
27 contained in this paragraph.  
28



**FACTUAL ALLEGATIONS**

**Answer to Paragraph 6:** This answering Defendant denies the allegations contained in this paragraph.

**Answer to Paragraph 7:** This answering Defendant denies the allegations contained in this paragraph.

**Answer to Paragraph 8:** This answering Defendant denies the allegations contained in this paragraph.

**Answer to Paragraph 9:** This answering Defendant is without sufficient information to admit or deny the allegations and, based thereon, denies the allegations contained in this paragraph.

**Answer to Paragraph 10:** This answering Defendant is without sufficient information to admit or deny the allegations and, based thereon, denies the allegations contained in this paragraph.

**Answer to Paragraph 11:** This answering Defendant denies the allegations contained in this paragraph.

**Answer to Paragraph 12:** This answering Defendant is without sufficient information to admit or deny the allegations and, based thereon, denies the allegations contained in this paragraph.



1 **Answer to Paragraph 13:** This answering Defendant is without sufficient  
2 information to admit or deny the allegations and, based thereon, denies the  
3 allegations contained in this paragraph.

4  
5 **CLASS ALLEGATIONS**  
6

7 **Answer to Paragraph 14:** This answering Defendant is without sufficient  
8 information to admit or deny the allegations and, based thereon, denies the  
9 allegations contained in this paragraph.

10  
11 **Answer to Paragraph 15:** This answering Defendant denies the allegations  
12 contained in this paragraph.

13  
14 **Answer to Paragraph 16:** This answering Defendant denies the allegations  
15 contained in this paragraph.

16  
17 **Answer to Paragraph 17:** This answering Defendant denies the allegations  
18 contained in this paragraph.

19  
20 **Answer to Paragraph 18:** This answering Defendant denies the allegations  
21 contained in this paragraph.

22  
23 **Answer to Paragraph 19:** This answering Defendant denies the allegations  
24 contained in this paragraph.

25  
26 **Answer to Paragraph 20:** This answering Defendant denies the allegations  
27 contained in this paragraph.

28



1 **Answer to Paragraph 21:** This answering Defendant is without sufficient  
2 information to admit or deny the allegations and, based thereon, denies the  
3 allegations contained in this paragraph.

4  
5 **Answer to Paragraph 22:** This answering Defendant denies the allegations  
6 contained in this paragraph.

7  
8 **Answer to Paragraph 23:** This answering Defendant denies the allegations  
9 contained in this paragraph.

10  
11 **Answer to Paragraph 24:** This answering Defendant denies the allegations  
12 contained in this paragraph.

13  
14 **FIRST CAUSE OF ACTION**

15  
16 **Answer to Paragraph 25:** This answering Defendant repeats its answers in  
17 Paragraphs 1 through 24, above, and incorporates them herein by this reference.

18  
19 **Answer to Paragraph 26:** This answering Defendant denies the allegations  
20 contained in this paragraph.

21  
22 **Answer to Paragraph 27:** This answering Defendant denies the allegations  
23 contained in this paragraph.

24  
25 **Answer to Paragraph 28:** This answering Defendant denies the allegations  
26 contained in this paragraph.



1 **SECOND CAUSE OF ACTION**

2  
3 **Answer to Paragraph 29:** This answering Defendant repeats its answers in  
4 Paragraphs 1 through 28, above, and incorporates them herein by this reference.  
5

6 **Answer to Paragraph 30:** This answering Defendant denies the allegations  
7 contained in this paragraph.  
8

9 **Answer to Paragraph 31:** This answering Defendant denies the allegations  
10 contained in this paragraph.  
11

12 **Answer to Paragraph 32:** This answering Defendant denies the allegations  
13 contained in this paragraph.  
14

15 **PRAYER FOR RELIEF**

16  
17 The Prayer for Relief does not contain allegations of law or fact that require a  
18 response from this answering Defendant. To the extent that an answer is required,  
19 this answering Defendant denies the allegations of the Prayer for Relief.

20 WHEREFORE, this answering Defendant denies that Plaintiff and the putative class  
21 members are entitled to any relief whatsoever and respectfully requests judgment  
22 dismissing the Complaint with prejudice and with such costs and attorneys' fees as  
23 may be allowed by law and any further relief the Court deems appropriate.  
24  
25  
26  
27  
28



1 **AFFIRMATIVE DEFENSES**

2  
3 In addition, and for its affirmative defenses, this answering Defendant alleges  
4 as follows:

5  
6 **FIRST AFFIRMATIVE DEFENSE**

7 **(Failure to State a Claim Upon Which Relief May be Granted)**

8  
9 1. First, separate, affirmative defense, this answering Defendant alleges  
10 that the Complaint, and each and every cause of action contained therein, fails to  
11 state a claim upon which relief may be granted.

12  
13 **SECOND AFFIRMATIVE DEFENSE**

14 **(Estoppel)**

15  
16 2. Second, separate, affirmative defense, this answering Defendant states  
17 it is informed and believes, and thereon alleges, that Plaintiff and the putative class  
18 members, through their conduct, approved, authorized and/or ratified Defendant's  
19 actions and are, accordingly, estopped from seeking recovery herein.

20  
21 **THIRD AFFIRMATIVE DEFENSE**

22 **(Failure to Mitigate Damages)**

23  
24 3. Third, separate, affirmative defense, this answering Defendant states  
25 that Plaintiff's, and that of the putative class members, action is barred by their  
26 failure to properly mitigate their damages.



1 **FOURTH AFFIRMATIVE DEFENSE**

2 **(Waiver of Rights)**

3  
4 4. Fourth, separate, affirmative defense, this answering Defendant states  
5 that, it is informed and believes, and thereon alleges, that Plaintiff and the putative  
6 class members, by their conduct, have waived any and all rights they may have had  
7 against this answering Defendant.

8  
9 **FIFTH AFFIRMATIVE DEFENSE**

10 **(Lack of Jurisdiction)**

11  
12 5. Fifth, separate, affirmative defense, this answering Defendant alleges  
13 that this Court lacks subject matter jurisdiction over the Complaint.

14  
15 **SIXTH AFFIRMATIVE DEFENSE**

16 **(Unclean Hands)**

17  
18 6. Sixth, separate, affirmative defense, this answering Defendant alleges  
19 that Plaintiff and the putative class members are guilty of unclean hands, and are  
20 therefore precluded from recovery herein.

21  
22 **SEVENTH AFFIRMATIVE DEFENSE**

23 **(Laches)**

24  
25 7. Seventh, separate, affirmative defense, this answering Defendant  
26 alleges that certain of Plaintiff's claims, and that of the putative class members, are  
27 subject to the doctrine of laches.

28





**EIGHTH AFFIRMATIVE DEFENSE**

**(Statute Of Limitations)**

8. Eighth, separate, affirmative defense, this answering Defendant alleges that the Complaint is barred by the applicable statutes of limitations, including, but not limited to, Code of Civil Procedure Sections, 337, 338, 339 and 340.

**NINTH AFFIRMATIVE DEFENSE**

**(Fraud)**

9. Ninth, separate, affirmative defense, this answering Defendant alleges that it is informed and believes, and thereon alleges, that Plaintiff and the putative class members are barred from any recovery because of their own fraudulent conduct in dealing with Defendant.

**TENTH AFFIRMATIVE DEFENSE**

**(Negligence)**

10. Tenth, separate, affirmative defense, this answering Defendant alleges that Plaintiff's, and that of the putative class members, damages, if any, are a result of their own actions, negligence, mismanagement and courses of conduct, or the actions, negligence, mismanagement and courses of conduct of others.

**ELEVENTH AFFIRMATIVE DEFENSE**

**(Justification)**

11. Eleventh, separate, affirmative defense, this answering Defendant alleges that Defendant's acts or omissions, if any, were excused and/or justified.



**TWELFTH AFFIRMATIVE DEFENSE**

**(Consent)**

12. Twelfth, separate, affirmative defense, this answering Defendant alleges that the Complaint, and each and every alleged cause of action therein are barred, in whole or in part, because Plaintiff and the putative class members consented to the conduct about which they now complain.

**THIRTEENTH AFFIRMATIVE DEFENSE**

**(Lack Of Standing)**

13. Thirteenth, separate, affirmative defense, this answering Defendant alleges that Plaintiff and the putative class members lack standing to bring their claims as to all or a portion of the claims alleged in the Complaint.

**FOURTEENTH AFFIRMATIVE DEFENSE**

**(No Class Action)**

14. Fourteenth, separate, affirmative defense, this answering Defendant alleges that this suit may not be properly maintained as a class action because: (1) Plaintiff and the putative class members have failed to plead, and cannot establish the necessary procedural elements for class treatment; (2) a class action is not an appropriate method for the fair and efficient adjudication of the claims described in the Complaint; (3) common issues of fact and law do not predominate; to the contrary, individual issues predominate; (4) Plaintiff's claims are not representative or typical of the claims of the putative class; (5) Plaintiff is not a proper class representative; (6) the named Plaintiff, and alleged putative class counsel are not adequate representatives for the alleged putative class; (7) Plaintiff cannot satisfy



1 any of the requirements for class action treatment, and class action treatment is  
2 neither appropriate nor constitutional; (8) there is not a well-defined community of  
3 interest in the questions of law or fact affecting Plaintiff, and the putative class  
4 members; and (9) the alleged putative class is not numerous, ascertainable, nor are  
5 its members identifiable.

6  
7 **FIFTEENTH AFFIRMATIVE DEFENSE**

8 **(Defenses Apply to Putative Class)**

9  
10 15. Fifteenth, separate, affirmative defense, this answering Defendant  
11 opposes class certification and disputes the propriety of class treatment. If the court  
12 certifies a class in this case over this answering Defendant's objections, then  
13 Defendant asserts the affirmative defenses set forth herein against each and every  
14 member of the certified class.

15  
16 **SIXTEENTH AFFIRMATIVE DEFENSE**

17 **(Right to Trial by Jury)**

18  
19 16. Sixteenth, separate, affirmative defense, this answering Defendant  
20 alleges that the adjudication of the claims of the putative class through generalized  
21 classwide proof violates Defendant's right to trial by jury guaranteed by the United  
22 States and California Constitutions.



1                                   **SEVENTEENTH AFFIRMATIVE DEFENSE**

2                                   **(Due Process)**

3  
4           17.   Seventeenth, separate, affirmative defense, this answering Defendant  
5 alleges that, to the extent that Plaintiffs and the putative class members claim  
6 penalties, such claims must comport with due process requirements.

7  
8                                   **EIGHTEENTH AFFIRMATIVE DEFENSE**

9                                   **(Failure To State: Injunctive Relief)**

10  
11           18.   Eighteenth, separate, affirmative defense, this answering Defendant  
12 alleges that the Complaint, and each and every alleged cause of action therein fails  
13 to properly state a claim for injunctive relief.

14  
15                                   **NINETEENTH AFFIRMATIVE DEFENSE**

16                                   **(Failure To Exhaust Remedies)**

17  
18           19.   Nineteenth, separate, affirmative defense, this answering Defendant  
19 alleges that Plaintiff, and the putative class members, are not entitled to equitable  
20 relief insofar as they have adequate remedies at law.

21  
22                                   **TWENTIETH AFFIRMATIVE DEFENSE**

23                                   **(Reservation Of Right To Assert Or Delete Affirmative Defenses)**

24  
25           20.   Twentieth, separate, affirmative defense, this answering Defendant  
26 states it does not presently know all facts concerning the conduct of Plaintiff, and  
27 the putative class members, and their claims, sufficient to state all affirmative  
28 defenses at this time. Defendant will seek leave of this Court to amend this answer



1 should it later discover facts demonstrating the existence of additional affirmative  
2 defenses.

3  
4 **PRAYER FOR RELIEF**

5  
6 WHEREFORE, having fully answered the Complaint herein, Defendant prays  
7 as follows:

- 8 1) Plaintiff, and the putative class members, take nothing by way of  
9 their Complaint;  
10 2) These answering Defendants be awarded Judgment, including  
11 attorneys' fees and costs of suit incurred herein;  
12 3) For such other and further relief as this Court deems just and  
13 proper; and  
14 4) Defendant hereby demands a jury trial in this matter.

15  
16 Dated: July 31, 2015

VAN RIPER LAW

17  
18 By: /s/ DAVID A. VAN RIPER  
19 DAVID A. VAN RIPER  
20 Attorneys for Defendant  
21 EaglePhillips, LLC,  
22 a Florida limited liability company  
23 doing business as Merchant Cash  
24 Cloud  
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